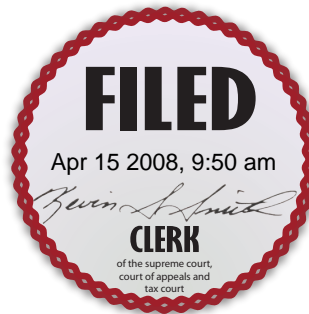


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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ALASKA REEVES,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0708-CR-737

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Mark Stoner, Judge  
The Honorable Jeffrey Marchal, Master Commissioner  
Cause No. 49G06-0608-FB-146344

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**April 15, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

## **Case Summary**

Alaska Reeves appeals his convictions for criminal deviate conduct and attempted criminal deviate conduct, both Class B felonies, for conduct involving his ex-girlfriend's nineteen-year-old daughter. Specifically, Reeves contends that the trial court erred in admitting into evidence five letters that he wrote to his ex-girlfriend while he was in jail awaiting trial in this case because the probative value of these letters was substantially outweighed by the danger of unfair prejudice. Because the letters discussed the night in question and asked his ex-girlfriend and her daughter not to testify against him at trial, and the trial court gave a limiting instruction to the jury to disregard the drug references in the letters, we conclude that the trial court did not abuse its discretion in admitting these letters into evidence. We therefore affirm the trial court.

## **Facts and Procedural History**

Reeves previously dated Caroline (also known as Kelly) Echols, and Reeves still occasionally visited her. Echols lives with her five children, one of whom is T.E., in Indianapolis. In the early morning hours of August 8, 2006, nineteen-year-old T.E. was awakened when she felt Reeves' fingers in her vagina. Reeves was standing over T.E. unfastening his clothes and telling T.E. that he wanted her to perform oral sex on him. T.E. did not want to do so. Reeves then grabbed T.E.'s head and moved it toward his penis. T.E. was able to break free from Reeves and ran to the bathroom because she was scared and did not know what to do. T.E. then ran to Echols' bedroom, and Echols called 911. After making the call, Echols ran to the front of her house, where she saw Reeves, who was wearing just underwear and one sock, running to his van.

Officer David Everman arrived at Echols' house approximately two minutes after the 911 call. Officer Everman spoke to Echols, who gave a description of Reeves and his van. The police stopped Reeves' van within sixty seconds and arrested him. Reeves was wearing underwear and one sock, just as Echols had described. The police recovered Reeves' shoes, belt, and cell phone from T.E.'s bedroom and found the screen from T.E.'s bedroom window on the ground.

Thereafter, the State charged Reeves with Count I: Class B felony criminal deviate conduct; Count II: Class B felony attempted criminal deviate conduct; Count III: Class B felony burglary; Count IV: Class D felony intimidation; and Count V: Class D felony criminal confinement. A jury trial was held in July 2007. The defense theory at trial was that Reeves and T.E. engaged in a consensual act. The State presented evidence that T.E.'s DNA was found underneath Reeves' fingernails. The State also introduced State's Exhibits 28-32, which were five letters that Reeves had written to Echols while he was in jail awaiting trial in this case. The State wanted to admit these letters into evidence because Reeves discussed details of the night in question and asked Echols and T.E. not to testify against him at trial. Reeves objected on the ground that because the letters contained vile, vulgar, and sexually explicit language, the probative value of these letters was substantially outweighed by the danger of unfair prejudice. Concluding that the probative value of the letters was not substantially outweighed by the prejudicial impact, the trial court overruled Reeves' objection and admitted them into evidence. However, the court gave the jury a limiting instruction to disregard the portions of the letters that referenced Reeves' drug use. At the conclusion of trial, the jury found Reeves

guilty of criminal deviate conduct and attempted criminal deviate conduct but not guilty of the remaining charges. The trial court sentenced Reeves to eight years on each count, to be served concurrently. Reeves now appeals.

### **Discussion and Decision**

Reeves raises one issue on appeal. Specifically, he contends that the trial court erred in admitting into evidence the five letters that he wrote to Echols while he was in jail awaiting trial in this case. Reeves argues that the probative value of these letters was substantially outweighed by the danger of unfair prejudice. Without even referencing the letters by date, quoting portions of the letters, or pointing to specific passages from the letters, Reeves concludes that the letters contain “explicit language referring to sexual acts by Mr. Reeves with Kelly Echols and other women as well as with her daughter [T.E.]. They also have numerous references to drug usage by Reeves and other nefarious activities. They are all written in a very unrestrained, sometimes even boastful, manner.” Appellant’s Br. p. 7-8.

Indiana Evidence Rule 403 provides in relevant part: “Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice . . . .” Evaluation of whether the probative value of an evidentiary matter is substantially outweighed by the danger of unfair prejudice “‘is a discretionary task best performed by the trial court.’” *Dunlap v. State*, 761 N.E.2d 837, 842 (Ind. 2002). Such rulings are reviewed for abuse of discretion. *See id.* The Indiana Supreme Court has explained that “all relevant evidence is ‘inherently prejudicial’ in a criminal prosecution, so the inquiry boils down to a balance of probative value against the likely

unfair prejudicial impact the evidence may have on the jury.” *Sanders v. State*, 840 N.E.2d 319, 323 (Ind. 2006) (quotation omitted). “When determining likely unfair prejudicial impact, courts will look for the dangers that the jury will substantially overestimate the value of the evidence or that the evidence will arouse or inflame the passions or sympathies of the jury.” *Id.* (quotation omitted).

After reviewing State’s Exhibits 28-32, we note that the letters contain many grammatical and spelling errors that make them difficult to comprehend at times. Despite this difficulty, the gist of the five letters is that Reeves likes to smoke crack cocaine, which, in turn, makes him want to perform oral sex on women in general. Specifically, Reeves explained in the June 6, 2007, letter to Echols that on the night in question, he not only inserted his fingers in T.E.’s vagina but also performed oral sex on her for two hours, all of which was consensual. He apologized to Echols for engaging in consensual sex acts with her daughter. In several of the letters, Reeves asked Echols and T.E. not to testify against him at trial because he wanted to return to his life of crack cocaine and sex. During closing arguments, Reeves’ attorney relied on these letters to prove that the incident with T.E. was consensual. In fact, counsel quoted heavily from the June 6, 2007, letter. Because Reeves himself wrote these letters, the letters discussed the night in question and asked Echols and T.E. not to testify against him at trial, and the trial court gave a limiting instruction to the jury to disregard the drug references, we cannot say that the jury overestimated the value of this evidence or that the letters inflamed the jury’s passions or sympathies. The trial court did not abuse its discretion in admitting these letters into evidence.

Affirmed.

SHARPNACK, J., and BARNES, J., concur.